

E-FILED - 5/22/09

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

REUBEN JOSEPH REYES,)	No. C 08-4561 RMW (PR)
)	
Plaintiff,)	ORDER GRANTING DEFENDANTS'
)	MOTION FOR PROTECTIVE
vs.)	ORDER
)	
ROBERT A. HOREL, et al.,)	
)	(Docket No. 18)
Defendants.)	

This is a civil rights action brought by a *pro se* prisoner under 42 U.S.C. § 1983 against prison officials. Defendants filed a motion for a protective order, seeking sixty additional days up to and including May 26, 2009 to respond to plaintiff's discovery requests. Plaintiff filed an opposition to their motion, and defendants have filed a reply. For the reasons discussed below, the court GRANTS defendants' motion.

DISCUSSION

A. Standard of Review

Federal Rule of Civil Procedure 26 states that, in general, any matter relevant to a claim or defense is discoverable. That principle is subject to limitation. Upon a showing of good cause, the court may issue an order "to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense." *See* Fed. R. Civ. P. 26(c). Defendants have the burden to show good cause by demonstrating harm or prejudice that will result from the discovery. *See Rivera v. NIBCO, Inc.*, 364 F.3d 1057 (9th Cir. 2004).

1 B. Analysis

2 In their motion, defendants request sixty additional days to respond to plaintiff's
3 discovery requests. Defendants claim that in the last two months, plaintiff has
4 propounded thirty-five requests. They contend that it would be unduly burdensome for
5 them to respond to these requests because their counsel is currently preparing a motion
6 for summary judgment, which is due on or before May 18, 2009. Plaintiff opposes the
7 motion on two grounds: (1) defendants have failed to establish good cause, and (2)
8 additional delay in responding to his discovery requests would prejudice him. Plaintiff
9 contends that he has limited access to the law library and will have very little time to
10 review the discovery requests and prepare his opposition to the summary judgment
11 motion given the briefing schedule set by the court. Plaintiff further explains the
12 relevancy of his requests to his claims and their possible relevance to his opposition to the
13 summary judgment motion.

14 "Discovery should be allowed unless the hardship is unreasonable in light of the
15 benefits to be secured from the discovery." *Snowdon v. Connaught Labs., Inc.*, 137
16 F.R.D. 325, 332 (D. Kan. 1991). While plaintiff has demonstrated the benefits he seeks
17 from the discovery -- the relevancy of his requests to the claims in this action and his
18 need to prepare for an opposition to defendants' summary judgment motion, the hardship
19 imposed on defendants by the extensive nature of the requests and the court-imposed
20 deadline for summary judgment motion is unreasonable. Accordingly, the court finds that
21 defendants have shown good cause for the requested additional time to respond to
22 plaintiff's discovery requests. If plaintiff needs an extension of time to respond to
23 defendants' motion for summary judgment, he must file a request, and the court will
24 provide him with such additional time if he shows additional time is needed.

25 **CONCLUSION**

26 For the foregoing reasons, defendants' motion for protective order (docket no. 18)
27 is GRANTED. Defendants' response to plaintiff's discovery is now due **May 26, 2009**.

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IT IS SO ORDERED.

DATED: 5/22/09


RONALD M. WHYTE
United States District Judge